

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF WISCONSIN

ERIC T. ALSTON,

Plaintiff,

v.

ORDER

13-cv-635-bbc

THE CITY OF MADISON, NOBLE WRAY,
TOM WOODMANSEE, CORY NELSON,
SAMANTHA D. KELLOGG, PAIGE VALENTA
and BRIAN REYNOLDS,

Defendants.

Plaintiff Eric Alston was granted leave to proceed *in forma pauperis* in this case on his claims that defendants Kellogg, Valenta, Woodmansee, Nelson, Wray and the City of Madison forced him to be a part of the Focused Deterrence program and that defendant Reynolds issued a warrant for plaintiff's arrest without reason. On November 22, 2013 defendants Kellogg, Valenta, Woodmansee, Nelson, Wray and the City of Madison file an answer to plaintiffs complaint and on November 25, 2013 defendant Reynolds filed an answer to the complaint. Both answers raised affirmative defenses to plaintiff's claims. Now plaintiff has filed responses to the answers. *See* dks. 18 and 19. Because the answer is not a pleading that requires a response, I will not consider plaintiff's reply.

Fed. R. Civ. P. 12(b) permits defendants to avoid litigation of a case if plaintiff's allegations of fact, even if accepted as true, would be insufficient to make out a legal claim against the defendants. Although the defendants denied many the statements in plaintiff's complaint and raised certain affirmative defenses in their answers, defendants have not filed a motion to dismiss. If such a motion were to be filed, plaintiff would be allowed to respond to it. Otherwise, it is not necessary for plaintiff to respond to defendant's answer. Indeed, Fed. R. Civ. P. 7(a)(7) forbids a plaintiff to submit a reply to an answer unless the court directs a

reply to be filed. No such order will be made in this case. In addition, averments in pleadings to which a response is not allowed are assumed to be denied. Fed. R. Civ. P. 8(b)(6). Therefore, although plaintiff will not be permitted to respond to defendant's answer, the court assumes that he has denied the factual statements and affirmative defenses raised in that answer.

ORDER

IT IS ORDERED that plaintiff Eric Alston's replies to the answers, dkts 18 and 19, will be placed in the court's file but will not be considered.

Entered this 20st day of February, 2014.

BY THE COURT:

/s/

STEPHEN L. CROCKER
Magistrate Judge